

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KENNETH LEE,
Plaintiffs

VS.

MATTHEW BELGEN and
WERNER ENTERPRISES, INC.,
Defendants

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CIVIL ACTION NO. 4:15-cv-1637
JURY REQUESTED

**DEFENDANTS' NOTICE OF REMOVAL
OF CIVIL ACTION**

COME the Defendants Matthew Belgen ("Belgen") and Werner Enterprises, Inc. ("Werner"), herein collectively referred to as "Defendants," and file this Notice of Removal, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

1. The Plaintiff, Kenneth Lee ("Plaintiff"), filed the Plaintiff's Original Petition on May 5, 2015 in the Harris County District Court which is within the Houston Division of the United States District Court for the Southern District of Texas. Under 28 U.S.C. § 1446(a), removal to this Division of this District is proper.

2. In the Original Petition Plaintiff alleges that on or about August 27, 2014, Belgen, allegedly an employee of Werner acting in the course and scope of his employment, operated a vehicle in a negligent manner causing an accident in which the Plaintiff was allegedly injured. Plaintiff claims to have sustained serious bodily injuries and is seeking to recover (a) past and future medical expenses, (b) past and future physical pain and mental anguish, (c) past lost wages and future lost wage earning capacity, and (d) past and future physical impairment from both Belgen and

Werner, and pre and post judgment interest. The Plaintiff's Original Petition alleges damages between \$100,000 and \$200,000.

3. A copy of Plaintiff's Original Petition (with Discovery Requests) is attached hereto as Exhibit "A." Belgen was served by private process server on May 12, 2015, and Werner was served through its agent for service of process on or about May 12, 2015. See Citations attached hereto as Exhibit "B."

4. On or about June 1, 2015, Werner and Wilson filed an Original Answer, a copy of which is attached hereto as Exhibit "C," and served a copy of said motion upon counsel for the Plaintiff in this Action by facsimile transmission.

5. Plaintiff is an individual and a resident and citizen of the State of Texas.

6. Werner is a corporation incorporated in the State of Nebraska with its principal place of business in Omaha, Nebraska.

7. Belgen is an individual and is a resident and citizen of the State of California.

8. This Notice of Removal is timely as it was filed within the 30 day time period required under 28 U.S.C. § 1446(b).

9. The Action is one which may be removed to this Court by the Defendants pursuant to 28 U.S.C. §§ 1441 and 1446, and over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, in that diversity of citizenship exists between the Plaintiff and the Defendants hereto, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

10. All pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. § 1446(a).

11. Venue is proper in this District under 28 U.S.C. §1441(a) because the state court where the action has been pending is located within this District.

12. Defendants will promptly file a copy of this Notice of Removal with the Clerk of the state court where the action has been pending.

13. Defendants demanded a jury in the state court action.

14. On or about the date of this filing, Defendants served upon counsel for the Plaintiff a copy of the "Defendants' Notice of Removal of Civil Action."

WHEREFORE, the Defendants MATTHEW BELGEN and WERNER ENTERPRISES, INC., by counsel, request that this Court remove the action from the Harris County District Court to The United States District Court for the Southern District of Texas Houston Division.

Respectfully submitted,

BAIRHILTY, P.C.

/s/Amanda S. Hilty

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**ATTORNEY FOR DEFENDANTS,
MATTHEW BELGEN AND
WERNER ENTERPRISES, INC.**

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per S. Dist. Tex. Loc. R. LR5.1 on the 10th day of June, 2015. A true and correct copy of the foregoing Defendants Notice of Removal was served upon counsel of record in compliance with the Federal Rules of Civil Procedure by certified mail, return receipt requested, telephonic communications, hand delivery and/or U.S. Mail on this the 10th day of June, 2015.

/s/ Amanda S. Hilty

AMANDA S. HILTY